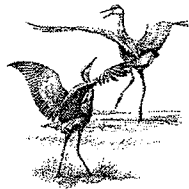


CALIFORNIA ENVIRONMENTAL LAW PROJECT
A Non-Profit Legal Corporation



JAN 29 2009

MPWMD

Speech to MPWMD Board by Laurens Silver esq., representing Sierra Club
(Ventana Chapter)

The Ventana Chapter of the Sierra Club has deep concern with respect to the joint application of Cal Am and SNG for a water distribution permit involving water pumped by Cal-Am offsite to SNG's development. As this Board is well aware, as a result of a Complaint filed by a number of citizen groups, including the Ventana Chapter and the Carmel River Steelhead Association, the State Water Resources Control Board issued Order 95-10 in 1995. Order 95-10 was quite explicit in its direction to Cal Am to make one-for-one reductions in its production from the Carmel River when it obtained new water. It directed Cal Am to reduce its diversions from the River to the greatest practicable extent and to increase its pumping from the Seaside Aquifer for very limited purposes to serve existing connections, and to serve communities that had been allocated water under the Districts allocation. The State Board did not contemplate under this Order that Cal Am would augment its pumping from the Seaside Aquifer to service development outside its service area that had an alternative water source. Under the arrangement presented to this Board for approval, the developer has in essence assigned its right to pump groundwater for use on its overlying property to Cal Am, which will provide (higher quality water) from its pumps elsewhere in the Seaside Aquifer. This assignment by SNG to Cal Am of its pumping right for the purpose of supplying it water for its development is in effect the transfer of an interest in water that under Order 95-10 requires a

90 acre foot/year offset against Cal Am's production limit on pumping from the Carmel River. Sierra Club does not object to SNG obtaining water from the City of Seaside desalination plant if it has a water quality problem on site, nor does it object to the delivery of water by Cal Am to SNG if the conditions on the permit require that Cal Am's annual production limit will be reduced on a one-for-one basis for each acre foot delivered to SNG by Cal Am through augmented pumping.

Sierra Club is convinced that if the District fails to make such a condition it will have violated the stipulated judgment in *Sierra Club v. SWRCB* (Monterey County No. 105610), in which the District, the State Board, Cal Am, Sierra Club and Carmel River Steelhead Association all agreed on the wording of Condition 4 of Order 95-10, which is central to this dispute. If the District wishes to dispute the scope of the exceptions contained in Condition 4, then Sierra Club urges it to seek a declaration of its meaning before the Monterey County Superior Court, which entered judgment and reserved jurisdiction in this matter.

Finally, Sierra Club believes it is not sound public policy to encourage the holders of Alternative Production Allowances under the Decree to trade their overlying rights for water produced elsewhere in the Aquifer by Cal Am to facilitate development on those overlying parcels, without counting such water as new water obtained by Cal Am that would otherwise result in one-for-one reductions in Cal Am's diversions from the Carmel River.